

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

HOUSE BILL 692

47TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2005

INTRODUCED BY

Sheryl Williams Stapleton

AN ACT

RELATING TO CRIME VICTIMS; PROVIDING AN OPPORTUNITY FOR A
VICTIM OF CRIME TO MAKE A STATEMENT AT A COURT PROCEEDING AND
TO BE INFORMED OF PLEA AGREEMENTS; REQUIRING NOTICE TO VICTIMS
OF SCHEDULED COURT PROCEEDINGS.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. A new section of the Victims of Crime Act is
enacted to read:

"[NEW MATERIAL] CRIME VICTIM PRESENCE AT COURT
PROCEEDINGS-- PLEA AGREEMENT NOTIFICATION. --

A. At any scheduled court proceeding, the court
shall inquire on the record whether a victim is present for the
purpose of making an oral statement or submitting a written
statement. If the victim is not present, the court shall
inquire on the record whether an attempt has been made to

underscored material = new
[bracketed material] = delete

underscored material = new
[bracketed material] = delete

1 notify the victim of the proceeding. If the district attorney
2 cannot certify that an attempt has been made, the court shall:

3 (1) reschedule the hearing; or

4 (2) continue with the hearing but reserve
5 ruling until the victim has been notified and given an
6 opportunity to make a statement; and

7 (3) order the district attorney to notify the
8 victim of the rescheduled hearing.

9 B. Except for good cause shown, the court shall not
10 accept a plea agreement unless it finds that the district
11 attorney has, either orally or in writing:

12 (1) informed the victim of the contents of the
13 proposed plea agreement; and

14 (2) obtained the victim's views about the
15 disposition of the case.

16 C. The provisions of this section shall not limit
17 the district attorney's ability to exercise prosecutorial
18 discretion on behalf of the state in a criminal case. "

19 Section 2. Section 31-26-1 NMSA 1978 (being Laws 1994,
20 Chapter 144, Section 1) is amended to read:

21 "31-26-1. SHORT TITLE. -- ~~[This act]~~ Chapter 31, Article 26
22 NMSA 1978 may be cited as the "Victims of Crime Act". "

23 Section 3. Section 31-26-9 NMSA 1978 (being Laws 1994,
24 Chapter 144, Section 9) is amended to read:

25 "31-26-9. PROCEDURES FOR PROVIDING VICTIMS WITH NOTICE OF

. 153754. 1

1 RIGHTS AND INFORMATION REGARDING PROSECUTION OF A CRIMINAL
2 OFFENSE-- DISTRICT ATTORNEYS. --

3 A. Within seven working days after a district
4 attorney files a formal charge against the accused for a
5 criminal offense, the district attorney shall provide the
6 victim of the criminal offense with:

7 (1) a copy of Article 2, Section 24 of the
8 constitution of New Mexico, regarding victims' rights;

9 (2) a copy of [~~legislation that implements the~~
10 ~~provisions of Article 2, Section 24 of the constitution of New~~
11 ~~Mexico~~] the Victims of Crime Act;

12 (3) a copy of the charge filed against the
13 accused for the criminal offense;

14 (4) a clear and concise statement of the
15 procedural steps generally involved in prosecuting a criminal
16 offense; and

17 (5) the name of a person within the district
18 attorney's office whom the victim may contact for additional
19 information regarding prosecution of the criminal offense.

20 B. [~~If requested by the victim~~] The district
21 attorney's office shall provide the victim with oral or written
22 notice, in a timely fashion, of a scheduled court proceeding
23 attendant to the criminal offense. "